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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 TONY ALLEN PRESSLER,

Case No. 3:20-cv-00675-MMD-CLB

7 Plaintiff,

ORDER

8 v.

9 NEVADA, STATE OF, *et al.*,

10 Defendants.

11 On December 4, 2020, Defendants filed a petition to remove this case from the
12 Fourth Judicial District Court of the State of Nevada to the Federal District Court for the
13 District of Nevada pursuant to 28 U.S.C. § 1441(b). (ECF No. 1.) Defendants' petition
14 for removal was based on the presence of a federal question due to Plaintiff Tony Allen
15 Pressler's brief reference to 42 U.S.C. § 1983 in his complaint. (*Id.* at 2.)

16 Because it was not entirely clear from the complaint what claims Pressler was
17 bringing, the Court issued an order to show cause directing Defendants to show cause
18 as to why this case should not be remanded to state court for a lack of subject matter
19 jurisdiction. (ECF No. 6.) The order to show cause provided that Pressler could file a
20 response within 15 days of Defendants' filings. (*Id.*)

21 Defendants filed a response to the order to show cause arguing that although
22 Pressler's claims were not clear, the factual allegations, together with the explicit
23 reference to 42 U.S.C. § 1983, suggested that Pressler was attempting to bring
24 constitutional claims. (ECF No. 8.) Pressler did not file any response.

25 On April 5, 2021, the Court screened Pressler's complaint pursuant to 28 U.S.C. §
26 1915A. (ECF No. 10.) The Court determined that Pressler's claims appeared to be
27 duplicative of a previous case filed in this Court and the screening order directed Pressler
28 to show cause as to why this case should not be dismissed as duplicative of his previously
filed case. (*Id.*)

1 Pressler has filed a response in which he indicates that the reference to 42 U.S.C.
2 § 1983 in his first amended complaint was made in error and that he has filed a second
3 amended complaint in state court which clarifies that he is not invoking jurisdiction under
4 42 U.S.C. § 1983. (ECF No. 12 at 1.) Pressler attached his seconded amended
5 complaint, and it states that Pressler is bringing “a state tort claim.” (*Id* at 3.)

6 In light of Pressler’s clarification that he is only bringing state law tort claims, and
7 that the reference to 42 U.S.C. § 1983 was made in error, the Court finds that there is no
8 federal question presented in this case, and the Court does not have subject matter
9 jurisdiction over this case. Under 28 U.S.C. § 1447(c), following removal of a case from
10 state court, “[i]f at any time before final judgment it appears that the district court lacks
11 subject matter jurisdiction, the case shall be remanded.” Accordingly, the Court
12 administratively closes this action and remands this case back to the Fourth Judicial
13 District Court of the State of Nevada.

14 For the foregoing reasons, the Clerk of the Court is directed to administratively
15 close this case and remand this action back to state court.

16 DATED THIS 17th Day of May 2021.

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19 _____
20 MIRANDA M. DU
21 CHIEF UNITED STATES DISTRICT JUDGE
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